

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BENEZET CONSULTING, LLC	:	
<i>and</i> TRENTON POOL,	:	No. 1:16-CV-0074
Plaintiffs	:	
	:	Judge Kane
v.	:	
	:	<i>Complaint filed 01/14/16</i>
PEDRO A. CORTÉS and	:	
JONATHAN MARKS,	:	
Defendants	:	Electronically Filed Document

NOTICE OF RECENT OPINION REGARDING
THE CONSTITUTIONALITY
OF SECTION 2869 OF THE PENNSYLVANIA
ELECTION CODE (25 P.S. § 2869)

Defendants, Pedro A. Cortés and Jonathan Marks, by and through their undersigned counsel, hereby submit this Notice of Recent Opinion Regarding the Constitutionality of Section 2869 of the Pennsylvania Election Code (25 P.S. § 2869), for the following reasons.

1. Plaintiffs initiated this action, challenging the constitutionality of several provisions of the Pennsylvania Election Code, including Section 2869, on or about January 14, 2016. (Doc. 1). The operative pleading is the Second Amended Complaint. (Doc. 25).

2. Defendants filed a Motion for Summary Judgment (Docs. 41-43), seeking judgment on all claims, on or about December 22, 2016, and, on the same day, Plaintiffs filed a cross Motion for Summary Judgment. (Docs. 44-45).

3. Both motions are fully briefed, and ripe for determination.

4. On August 21, 2017, the Honorable Judge John E. Jones III issued a Memorandum and Order in the case titled *Roque “Rocky” De La Fuente v. Cortés*, No. 1:16-cv-01696 (M.D. Pa. Aug. 17, 2017), which, in part, addresses the constitutionality of Section 2869. True and correct copies of the Memorandum and Order are attached hereto as Attachment “A.”

5. Judge Jones concluded that Section 2869 is constitutional, and consistent with well-established law granting political parties broad leeway in establishing their associational boundaries. *See* Attachment “A,” pp. 19-23.

6. Defendants believe that Judge Jones’ opinion in *De La Fuente* may inform this Honorable Court’s ruling on the issue of the constitutionality of Section 2869, and respectfully bring this recent opinion to the Court’s attention.

Respectfully submitted,

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